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Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Thomas J. Hörmann, et al.  
Serial No: 10/509,006  
Filed: September 24, 2004  
For: GUIDE RAIL ARRANGEMENT  
Examiner: David M. Purol  
Art Unit: 3634

Mail Stop: Appeal Brief-Patents  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**BRIEF ON APPEAL**

S I R:

This appeal is taken from the Final Action mailed September 13, 2005.

**Real Party in Interest**

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The real party in interest in the above-identified application is:

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**Related Appeals and Interferences**

There are no related appeals or interferences of which Applicants are aware regarding the above-identified application.

**Status of Claims**

Claims 1-10 are pending in the application and are subject to the present appeal. Claims 1-10 stand rejected under 35 U.S.C. 102(e) or, in the alternative, under 35 U.S.C. 103(a) over U.S. Patent No. 6,554,047 to Mondragon et al.

**Status of Amendments After Final Rejection**

No amendment after final rejection was filed.

**Summary of the Claimed Subject Matter**

The claimed invention recites a sectional door comprising a door leaf 56 and a guide rail arrangement that forms a track 10 for guiding the movement of the door leaf 56 between an open position and a closed position (see page 17, lines 19-20 of the specification and Fig. 3). The track forms two substantially straight segments 22, 32 and a connecting segment 24, 34 joining the two straight segments 22, 32 (see page 14, lines 10-15 and Figs. 1-2). The track has two rail elements 20, 30 that each form one of the straight segments 22, 32 (see page 14, lines 12-13 and Figs. 1-2). The rail elements 20, 30 are connected so as to form a guide rail 10 in which the straight segments of the track enclose an angle of substantially 90° with each other (see page 6, lines 3-8 and Figs. 1-2). Each of the rail elements 20, 30 consists of an essentially straight section 22, 32 and a circular arc-shaped section 24, 34 located at the end of the straight

section 22, 32 and formed as an integral part of the straight section so as to form the connecting segment (see page 14, lines 10-15 and Figs. 1-2). The rail elements 20, 30 are connected at the arc-shaped sections 24, 34 so that the straight sections 22, 32 are at an angle of  $90^\circ$  to each other (see page 6, lines 3-8 and Figs. 1-2), and so that the tangents to the ends of the arc-shaped sections 24, 34 facing away from the straight sections 22, 32 enclose with each other an acute angle of more than  $3^\circ$  and less than  $15^\circ$  (see page 6, line 20-page 7, line 10).

**Grounds of Rejection to be Reviewed on Appeal**

The following grounds are presented for review:

Whether claims 1-10 are anticipated under 35 U.S.C. 102(e) by or, in the alternative, obvious under 35 U.S.C. 103(a) over Mondragon et al.

ArgumentThe Rejection of Claims 1-10 under 35 U.S.C. 102(e) or, in the alternative under 35 U.S.C. 103(a):

In rejecting claims 1-10, the Examiner stated the following in the final rejection:

"The applicants state that Mondragon et al do not disclose the rail elements being connected at the arc-shaped sections so that the straight sections are at an angle of ninety degrees to each other and so that the tangents to the ends of the arc-shaped sections facing away from the straight sections enclose with each other an acute angle of more than three degrees and less than fifteen degrees. This is not convincing for Mondragon et al set forth that the track assemblies include a vertical track section, a transition track section and a substantially horizontal track section which defines per se that the straight sections are at an angle of ninety degrees to each other. The particular degree of the tangents of the arc-shaped sections as disclosed by Mondragon et al are seen as being encompassed therein as depicted in the figures or in the alternative an obvious variation thereof."

The patent to Mondragon et al. discloses a guide track assembly and mounting brackets for upward acting doors. Although Mondragon et al. disclose a door with a number of different rail segments, applicant respectfully submits that they do not disclose a door having the features recited in the claims presently on file. Specifically, Mondragon et al. do not disclose or suggest

the rail elements being connected at the arc-shaped sections so that the straight sections are at an angle of  $90^\circ$  to each other, and so that the tangents to the ends of the arc-shaped sections facing away from the straight sections enclose with each other an acute angle of more than  $3^\circ$  and less than  $15^\circ$ , as in the presently claimed invention. At the time of the priority date of Mondragon et al., guide elements were produced with such an accuracy that a tangent to the end of the arc-shaped section facing away from the straight section and the corresponding straight section include a predetermined angle with an accuracy of by far less than  $1^\circ$ . Thus, even if one takes into consideration production tolerances, the limitations recited in claim 1 presently on file are not disclosed or suggested by Mondragon et al. There is absolutely no suggestion by Mondragon et al. for a construction having rail elements that are connected at the arc-shaped sections so that the straight sections are at an angle of  $90^\circ$  to each other, and so that the tangents to the ends of the arc-shaped sections facing away from the straight sections enclose with each other an acute angle of more than  $3^\circ$  and less than  $15^\circ$  and the benefits obtained from such a construction, as in the presently claimed invention.

**LZ-89**

In view of the above considerations it is respectfully submitted that Mondragon et al. do not disclose or render obvious the present invention.

### Conclusion

Accordingly, in view of the above considerations, it is Applicant's position that the Examiner's rejection of claims 1-10 under 35 U.S.C. 102(e) or, in the alternative under 35 U.S.C. 103(a) over Mondragon et al is in error and should be reversed.

The amount of \$500.00 to cover the fee for filing an appeal brief is being charged as per attached form PTO-2038. Any additional fees or charges required at this time in connection with this application should be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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Dated: March 8, 2006

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on March 8, 2006.

By: *F K*  
Friedrich Kueffner

Date: March 8, 2006



Claims Appendix

1. A sectional door comprising a door leaf and a guide rail arrangement that forms a track for guiding the movement of the door leaf between an open position and a closed position, the track forming two substantially straight segments and a connecting segment joining the two straight segments, the track comprising two rail elements (20, 30) that each form one of the straight segments, which rail elements are connected so as to form a guide rail in which the straight segments of the track enclose an angle of substantially  $90^\circ$  with each other, each of the rail elements (20, 30) consisting of an essentially straight section (22, 32) and a circular arc-shaped section (24, 34) located at the end of the straight section (22, 32) and formed as an integral part of the straight section so as to form the connecting segment, wherein the rail elements (20, 30) are connected at the arc-shaped sections so that the straight sections (22, 32) are at an angle of  $90^\circ$  to each other, and so that the tangents to the ends of the arc-shaped sections (24, 34) facing away from the straight sections (22, 32) enclose with each other an acute angle of more than  $3^\circ$  and

less than 15°.

2. Door according to Claim 1, wherein the straight section (22, 32) is tangential to the end of the arc-shaped section (24, 34) that faces the straight section.
3. Door according to Claim 1, wherein at least one of the rail elements (20, 30) is configured so that a tangent to the end of the arc-shaped section facing away from the straight section encloses an acute angle of 45° or less with a straight line parallel to the straight section (22, 32).
4. Door according to Claim 1, wherein the straight sections (22, 32) of the rail elements have different lengths.
5. Door according to Claim 1, wherein the rail elements (20, 30) are configured to receive a guide element (50, 60).
6. Door according to Claim 1, comprising two guide rails (10), which are fixed in place in the area of the opposite edges of the door leaf (40), each rail having two rail elements with a straight section and an arc-shaped section formed as

an integral part of the straight section, where at least one of the rail elements is convertible into a different rail element by reflection in a plane.

7. Door according to Claim 5, wherein the guide element is a guide roller attached to the door leaf.
8. Door according to Claim 1, wherein the tangents enclose an angle of more than  $5^{\circ}$ .
9. Door according to Claim 1, wherein the tangents enclose an angle of less than  $10^{\circ}$ .
10. Door according to Claim 8, wherein the tangents enclose an angle of less than  $10^{\circ}$ .

**LZ-89**

**Evidence Appendix**

**N.A.**

**LZ-89**

**Related Proceedings Appendix**

There are no related proceedings.